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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 Tiffinie Brenner,) Case No.
14)
15 Plaintiff,) **CLASS COMPLAINT AND TRIAL BY**
16) **JURY DEMAND**
17 vs.)
18)
19 J & L Collection Services, Inc. dba J & L)
20 Teamworks,)
21)
22 Defendant.)

23 **NATURE OF ACTION**

24 1. Plaintiff Tiffinie Brenner (“Plaintiff”) brings this putative class action
25 against Defendant J & L Collection Services, Inc. dba J & L Teamworks (“Defendant”)
26 pursuant to the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*,
27 and the Rosenthal Fair Debt Collection Practices Act (“RFDCPA”), Cal. Civ. Code §
28 1788 *et seq.*, individually and on behalf of all others similarly situated.

JURISDICTION, VENUE, AND STANDING

2. This Court has jurisdiction pursuant to 15 U.S.C. § 1692k(d), 28 U.S.C. §
1331, and 28 U.S.C. § 1367(a).

1 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
2 the acts and transactions giving rise to Plaintiff's action occurred in this district, where
3 Plaintiff resides in this district, and where Defendant transacts business in this district.
4

5 4. "In determining whether an intangible harm constitutes injury in fact, both
6 history and the judgment of Congress play important roles." *Spokeo, Inc. v. Robins*, 136
7 S. Ct. 1540, 1549, 194 L. Ed. 2d 635 (2016), *as revised* (May 24, 2016). Congress is
8 "well positioned to identify intangible harms that meet minimum Article III
9 requirements," thus "Congress may 'elevat[e] to the status of legally cognizable injuries
10 concrete, *de facto* injuries that were previously inadequate in law.'" *Id.* (quoting *Lujan v.*
11 *Defs of Wildlife*, 504 U.S. 555, 578 (1992)).
12
13

14 5. "Without the protections of the FDCPA, Congress determined, the
15 '[e]xisting laws and procedures for redressing these injuries are inadequate to protect
16 consumers.'" *Lane v. Bayview Loan Servicing, LLC*, No. 15 C 10446, 2016 WL
17 3671467, at *3 (N.D. Ill. July 11, 2016) (quoting 15 U.S.C. § 1692(b)). Thus, a failure to
18 honor a consumer's right under the FDCPA constitutes an injury in fact for Article III
19 standing. *See id.* at *3 (holding that a consumer "has alleged a sufficiently concrete
20 injury because he alleges that [Defendant] denied him the right to information due to him
21 under the FDCPA"); *see also Church v. Accretive Health, Inc.*, No. 15-15708, 2016 WL
22 3611543, at *3 (11th Cir. July 6, 2016) (holding that consumer's § 1692g claim was
23 sufficiently concrete to satisfy injury-in-fact requirement).
24
25
26

27 6. "The Supreme Court has held time and again that the violation of a
28 statutory right to receive information one is entitled to receive creates a concrete injury

1 sufficient to confer standing on a plaintiff.” *Zia v. CitiMortgage, Inc.*, 210 F. Supp. 3d
2 1334, 1343 (S.D. Fla. 2016).

3
4 7. “The FDCPA does create an informational right which did not exist prior to
5 its enactment, and that right is tied to the harm which a consumer may suffer if not
6 provided with that information. Consequently, the deprivation of that information is, in
7 most cases, sufficient to confer Article III standing. That was the law before *Spokeo*, and
8 that law was not based on an erroneous understanding of Article III like the one corrected
9 by *Spokeo*, but by application of well-settled principles of standing jurisprudence
10 which *Spokeo* did not change (and, in fact, upon which *Spokeo* relied).” *Hagy v. Demers*
11 & *Adams, LLC*, No. 2:11-CV-530, 2017 WL 1134408, at *4 (S.D. Ohio Mar. 27, 2017).

12
13
14 8. “[N]umerous other courts, including courts in this circuit and from around
15 the country, have rejected *Spokeo*-based standing challenges in the context of FDCPA
16 violations.” *Neeley v. Portfolio Recovery Assocs., LLC*, No. 115CV01283RLYMJD,
17 2017 WL 3311045, at *2 (S.D. Ind. Aug. 2, 2017) (citing *Pogorzelski v. Patenaude &*
18 *Felix APC*, No. 16-C-1330, 2017 WL 2539782, at *4, 2017 U.S. Dist. LEXIS 89678, at
19 *11 (E.D. Wis. June 12, 2017)) (collecting cases).

20
21
22 9. “[E]ven though actual monetary harm is a sufficient condition to show
23 concrete harm, it is *not* a necessary condition.” *Lane*, 2016 WL 3671467 at *4 (emphasis
24 in original).

25 26 THE FAIR DEBT COLLECTION PRACTICES ACT

27 10. Congress enacted the FDCPA in order to eliminate “abusive debt collection
28 practices by debt collectors [and] to insure that those debt collectors who refrain from

1 using abusive debt collection practices are not competitively disadvantaged.” *Clark v.*
2 *Capital Credit & Collection Servs., Inc.*, 460 F.3d 1162, 1179-80 (9th Cir. 2006) (citing
3 15 U.S.C. § 1692(e)).
4

5 11. To protect consumers and ensure compliance by debt collectors, “the
6 FDCPA is a strict liability statute.” *McCollough v. Johnson, Rodenburg & Lauinger,*
7 *LLC*, 637 F.3d 939, 948 (9th Cir. 2011).
8

9 12. Strict liability enhances “the remedial nature of the statute,” and courts are
10 “to interpret it liberally” to protect consumers. *Clark*, 460 F.3d at 1176.
11

12 13. In addition, by making available to prevailing consumers both statutory
13 damages and attorneys’ fees, Congress “clearly intended that private enforcement actions
14 would be the primary enforcement tool of the Act.” *Baker v. G.C. Servs. Corp.*, 677 F.2d
15 775, 780-81 (9th Cir. 1982); *see also Tourgeman v. Collins Fin. Servs., Inc.*, 755 F.3d
16 1109, 1118 (9th Cir. 2014).
17

18 14. Violations of the FDCPA are assessed under the least sophisticated
19 consumer standard which is “‘designed to protect consumers of below average
20 sophistication or intelligence,’ or those who are ‘uninformed or naïve,’ particularly when
21 those individuals are targeted by debt collectors.” *Gonzales v. Arrow Fin. Servs., LLC*,
22 660 F.3d 1055, 1061 (9th Cir. 2011) (quoting *Duffy v. Landberg*, 215 F.3d 871, 874-75
23 (8th Cir. 2000)).
24
25

26 15. “An FDCPA Plaintiff need not even have actually been misled or deceived
27 by the debt collector’s representation; instead, liability depends on whether the
28

1 *hypothetical* ‘least sophisticated debtor’ likely would be misled.” *Tourgeman*, 755 F.3d
 2 at 1117-18 (emphasis in original).

3
 4 16. “[B]ecause the FDCPA is a remedial statute aimed at curbing what
 5 Congress considered to be an industry-wide pattern of and propensity towards abusing
 6 debtors, it is logical for debt collectors—repeat players likely to be acquainted with the
 7 legal standards governing their industry—to bear the brunt of the risk.” *Clark*, 460 F.3d at
 8 1171-72; *see also FTC v. Colgate-Palmolive Co.*, 380 U.S. 374, 393 (1965) (“[I]t does
 9 not seem unfair to require that one who deliberately goes perilously close to an area of
 10 proscribed conduct shall take the risk that he may cross the line.”) (internal quotations
 11 omitted).

14 **THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

15
 16 17. “California has adopted a state version of the FDCPA, called the Rosenthal
 17 Act.” *Riggs v. Prober & Raphael*, 681 F.3d 1097, 1100 (9th Cir. 2012).

18
 19 18. Like the FDCPA, the purpose of the RFDCPA is to “prohibit debt
 20 collectors from engaging in unfair or deceptive acts or practices in the collection of
 21 consumer debts and to require debtors to act fairly in entering into and honoring such
 22 debts, as specified in this title.” Cal. Civ. Code § 1788.1(b).

23
 24 19. “The Rosenthal Act mimics or incorporates by reference the FDCPA’s
 25 requirements . . . and makes available the FDCPA’s remedies for violations.” *Riggs*, 681
 26 F.3d at 1100.

1 29. Defendant regularly collects or attempts to collect, directly or indirectly,
2 debts owed or due, or asserted to be owed or due, another.

3
4 30. In connection with the collection of the Debt, Defendant sent Plaintiff
5 written communication dated June 30, 2017.

6 31. A true and correct copy of the June 30, 2017 letter is attached as Exhibit A.

7
8 32. The June 30, 2017 letter was Defendant's initial communication with
9 Plaintiff with respect to the Debt.

10 33. Defendant's June 30, 2017 letter purported to contain the notices required
11 in an initial communication by 15 U.S.C § 1692g(a).

12
13 34. Yet, Defendant's June 30, 2017 letter does not meaningfully convey the
14 identity of the creditor.

15 35. The letter states: "RE: Sutter Pacific Med Foundation." Exhibit A.

16
17 36. The letter directs payments by mail to be sent to Defendant directly and
18 online payments to be made at Defendant's website: "www.jltwpayments.com." *Id.*

19
20 37. Plaintiff, or the least sophisticated consumer, would be unsure if Sutter
21 Pacific Med Foundation, Defendant, or some unidentified third party was the current
22 creditor of the Debt.

23 38. The June 30, 2017 letter lists the balance of the Debt as \$591.79, comprised
24 of \$575.08 in principal and \$16.71 in interest. Exhibit A.

25
26 39. In response, Plaintiff timely sent Defendant a written dispute of the Debt.

27 40. Defendant subsequently sent Plaintiff written correspondence dated
28 September 13, 2017.

1 50. The proposed class specifically excludes the United States of America, the
2 State of California, counsel for the parties, the presiding United States District Court
3 Judge, the Judges of the United States Court of Appeals for the Ninth Circuit, and the
4 Justices of the United States Supreme Court, all officers and agents of Defendant, and
5 all persons related to within the third degree of consanguinity or affection to any of the
6 foregoing persons.
7

8
9 51. The class is averred to be so numerous that joinder of members is
10 impracticable.
11

12 52. The exact number of class members is unknown to Plaintiff at this time and
13 can be ascertained only through appropriate discovery.

14 53. The class is ascertainable in that the names and addresses of all class
15 members can be identified in business records maintained by Defendant.
16

17 54. There exists a well-defined community of interest in the questions of law
18 and fact involved that affect the parties to be represented. These common questions of
19 law and fact predominate over questions that may affect individual class members. Such
20 issues include, but are not limited to: (a) the existence of Defendant's identical conduct
21 particular to the matters at issue; (b) Defendants' violations of 15 U.S.C. § 1692 *et seq.*;
22 (c) the availability of statutory penalties; and (d) attorney's fees and costs.
23

24
25 55. The claims of Plaintiff are typical of the claims of the class she seeks to
26 represent.
27

28 56. The claims of Plaintiff and of the class originate from the same conduct,
practice, and procedure on the part of Defendant. Thus, if brought and prosecuted

1 individually, the claims of each class member would require proof of the same material
2 and substantive facts.

3
4 57. Plaintiff possesses the same interests and has suffered the same injuries as
5 each class member. Plaintiff asserts identical claims and seeks identical relief on behalf
6 of the unnamed class members.

7
8 58. Plaintiff will fairly and adequately protect the interests of the class and have
9 no interest adverse to or which directly and irrevocably conflicts with the interests of
10 other class members.

11
12 59. Plaintiff is willing and prepared to serve this Court and the proposed class.

13
14 60. The interests of Plaintiff are co-extensive with and not antagonistic to those
15 of the absent class members.

16
17 61. Plaintiff has retained the services of counsel who are experienced in
18 consumer protection claims, as well as complex class action litigation, who will
19 adequately prosecute this action, and who will assert, protect and otherwise represent
20 Plaintiff and all absent class members.

21
22 62. Class certification is appropriate under Fed. R. Civ. P. 23(b)(1)(A) and
23 23(b)(1)(B). The prosecution of separate actions by individual members of the class
24 would, as a practical matter, be dispositive of the interests of other members of the class
25 who are not parties to the action or could substantially impair or impede their ability to
26 protect their interests.

27
28 63. The prosecution of separate actions by individual members of the class
would create a risk of inconsistent or varying adjudications with respect to individual

1 members of the class, which would establish incompatible standards of conduct for the
2 parties opposing the class. Such incompatible standards of conduct and varying
3 adjudications, on what would necessarily be the same essential facts, proof and legal
4 theories, would also create and allow the existence of inconsistent and incompatible
5 rights within the class.
6

7
8 64. Class certification is appropriate under Fed. R. Civ. P. 23(b)(2) in that
9 Defendant has acted or refused to act on grounds generally applicable to the class,
10 making final declaratory or injunctive relief appropriate.
11

12 65. Class certification is appropriate under Fed. R. Civ. P. 23(b)(3) in that the
13 questions of law and fact that are common to members of the class predominate over any
14 questions affecting only individual members.
15

16 66. Moreover, a class action is superior to other methods for the fair and
17 efficient adjudication of the controversies raised in this Complaint in that: (a) individual
18 claims by the class members will be impracticable as the costs of pursuit would far
19 exceed what any one plaintiff or class member has at stake; (b) as a result, very little
20 litigation has been commenced over the controversies alleged in this Complaint and
21 individual members are unlikely to have an interest in prosecuting and controlling
22 separate individual actions; and (c) the concentration of litigation of these claims in one
23 forum will achieve efficiency and promote judicial economy.
24
25

26 **COUNT I (CLASS)**
27 **VIOLATION OF 15 U.S.C. § 1692g(a)(2)**

28 67. Plaintiff repeats and re-alleges each factual allegation contained above.

68. “Viewed from the perspective of the least sophisticated consumer, the Validation Notice must effectively convey the identity of the creditor.” *Youssofi v. CMRE Fin. Servs., Inc.*, No. 15CV2310 JM (WVG), 2016 WL 4098312, at *3 (S.D. Cal. Aug. 2, 2016).

69. “Merely including the current creditor’s name in a debt collection letter, without more, is insufficient to satisfy 15 U.S.C. § 1692g(a)(2).” *McGinty v. Prof’l Claims Bureau, Inc.*, No. 15CV4356SJFARL, 2016 WL 6069180, at *4 (E.D.N.Y. Oct. 17, 2016); *see Datiz v. Int’l Recovery Assocs., Inc.*, No. 15-CV-3549, 2016 WL 4148330, at *11 (E.D.N.Y. Aug. 4, 2016) (“[A] debt collector cannot satisfy Section 1692g(a)(2) by naming an entity without explicitly or implicitly making clear in the letter that the entity is the debtor's current creditor to whom a debt is owed.”).

70. Defendant violated 15 U.S.C. § 1692g(a)(2) by failing to meaningfully convey the name of the creditor to whom Plaintiff’s alleged debt is owed in its June 30, 2017 letter.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Determining that this action is a proper class action, certifying Plaintiff as class representative under Rule 23 of the Federal Rules of Civil Procedure, and designating this Complaint the operable complaint for class purposes;
- b) Adjudging that Defendant violated 15 U.S.C. § 1692g(a)(2) with respect to Plaintiff and the class she seeks to represent;
- c) Awarding Plaintiff and the class she seeks to represent actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);

- 1 d) Awarding Plaintiff such additional damages as the Court may allow in the
 2 amount of \$1,000, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i);
 3
 4 e) Awarding such amount as the Court may allow for all other class members,
 5 without regard to a minimum individual recovery, not to exceed the lesser
 6 of \$500,000 or one percent of the net worth of the debt collector, pursuant
 7 to 15 U.S.C. § 1692k(a)(2)(B)(ii);
 8
 9 f) Awarding Plaintiff and the class she seeks to represent reasonable
 10 attorneys' fees and costs incurred in this action, pursuant to 15 U.S.C. §
 11 1692k(a)(3);
 12
 13 g) Awarding Plaintiff and the class she seeks to represent any pre-judgment
 14 and post-judgment interest as permissible under the law; and
 15
 16 h) Awarding such other and further relief as the Court may deem just and
 17 proper.

18 **COUNT II (INDIVIDUAL)**
 19 **VIOLATION OF 15 U.S.C. § 1692e(2)(A)**

20 71. Plaintiff repeats and re-alleges each factual allegation contained above.

21 72. The FDCPA creates a broad, flexible prohibition against the use of
 22 misleading, deceptive, or false representations in the collection of debts. *See* 15 U.S.C. §
 23 1692e. *See Hamilton v. United Healthcare of Louisiana, Inc.*, 310 F.3d 385, 392 (5th
 24 Cir. 2002) (citing legislative history reference to the FDCPA's general prohibitions which
 25 "will enable the courts, where appropriate, to proscribe other improper conduct which is
 26 not specifically addressed").
 27
 28

1 73. Included as an example of conduct that violates section 1692e is the false
2 representation of the character, amount, or legal status of a debt. 15 U.S.C. §
3 1692e(2)(A).
4

5 74. Thus, the plain-language of the FDCPA makes it clear that under the strict
6 liability framework, any false representation as to the amount of the debt is sufficient to
7 show a violation of the FDCPA. *See Randolph v. IMBS, Inc.*, 368 F.3d 726, 730 (7th Cir.
8 2004) (“§ 1692e(2)(A) creates a strict-liability rule. Debt collectors may not make false
9 claims, period.”); *see also Turner v. J.V.D.B. & Associates, Inc.*, 330 F.3d 991, 995 (7th
10 Cir. 2003) (“under § 1692e ignorance is no excuse”).
11
12

13 75. Defendant violated 15 U.S.C. § 1692e(2)(A) by falsely representing the
14 character, amount, or legal status of Plaintiff’s alleged debt.
15

16 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 17 a) Adjudging that Defendant violated 15 U.S.C. § 1692e(2)(A);
18 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §
19 1692k(a)(2)(A), in the amount of \$1,000.00;
20 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
21 d) Awarding Plaintiff reasonable attorneys’ fees and costs incurred in this
22 action pursuant to 15 U.S.C. § 1692k(a)(3);
23 e) Awarding Plaintiff pre-judgment and post-judgment interest as permissible
24 by law; and
25 f) Awarding such other and further relief as the Court may deem proper.
26
27
28

**COUNT III (INDIVIDUAL)
VIOLATION OF 15 U.S.C. § 1692e(10)**

76. Plaintiff repeats and re-alleges each factual allegation contained above.

77. Congress, recognizing that it would be impossible to foresee every type of deceptive collection misbehavior, expressly included in the FDCPA a catchall provision, prohibiting “[t]he use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.” 15 U.S.C. § 1692e(10).

78. Defendant violated 15 U.S.C. § 1692e(10) by using false, deceptive, or misleading representations or means in connection with the collection of any debt.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated 15 U.S.C. § 1692e(10);
- b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. § 1692k(a)(2)(A), in the amount of \$1,000.00;
- c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- d) Awarding Plaintiff reasonable attorneys’ fees and costs incurred in this action pursuant to 15 U.S.C. § 1692k(a)(3);
- e) Awarding Plaintiff pre-judgment and post-judgment interest as permissible by law; and
- f) Awarding such other and further relief as the Court may deem proper.

**COUNT IV (INDIVIDUAL)
VIOLATION OF CAL. CIV. CODE § 1788.17**

79. Plaintiff repeats and re-alleges each and every factual allegation above.

1 80. Defendant violated Cal. Civ. Code § 1788.17 by failing to comply with the
2 provisions of Sections 1692b to 1692j, inclusive, of Title 15 of the United States Code.

3
4 81. Defendant violated 15 U.S.C. § 1692e(2)(A) by falsely representing the
5 character, amount, or legal status of Plaintiff's alleged debt.

6 82. Defendant violated 15 U.S.C. § 1692e(10) by using false, deceptive, or
7 misleading representations or means in connection with the collection of the Debt.
8

9 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 10 a) Adjudging that Defendant violated Cal. Civ. Code § 1788.17;
11
12 b) Awarding Plaintiff statutory damages, pursuant to Cal. Civ. Code §
13 1788.30(b), in the amount of \$1,000.00;
14
15 c) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §
16 1692k(a)(2)(A), in the amount of \$1,000.00;
17
18 d) Awarding Plaintiff actual damages, pursuant to Cal. Civ. Code § 1788.30(a)
19 and 15 U.S.C. § 1692k(a)(1);
20
21 e) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this
22 action pursuant to Cal. Civ. Code § 1788.30(c) and 15 U.S.C. §
23 1692k(a)(3);
24
25 f) Awarding Plaintiff pre-judgment and post-judgment interest as permissible
26 by law; and
27 g) Awarding such other and further relief as the Court may deem proper.

28 **TRIAL BY JURY**

83. Plaintiff is entitled to and hereby demands a trial by jury.

1 Dated: December 13, 2017

2 Respectfully submitted,

3 /s/ Elliot Rosenberger

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